

No. 21-16278

Opinion filed April 17, 2023

Before: O'SCANNLAIN, Senior Circuit Judge, BUMATAY, Circuit Judge,
and BAKER, Judge, U.S. Court of International Trade.

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

CALIFORNIA RESTAURANT ASSOCIATION,
Plaintiff-Appellant,

v.

CITY OF BERKELEY,
Defendant-Appellee.

On Appeal from the United States District Court
for the Northern District of California
No. 4:19-cv-07668-YGR
Hon. Yvonne Gonzalez Rogers, District Judge

**PLAINTIFF-APPELLANT'S UNOPPOSED MOTION FOR
EXTENSION OF TIME TO FILE RESPONSE TO
PETITION FOR REHEARING EN BANC**

Gary J. Toman
WEINBERG WHEELER
HUDGINS GUNN & DIAL
3344 Peachtree Road, NE
Suite 2400
Atlanta, GA 30326
(404) 876-2700
gtoman@wwhgd.com

Kylie Chiseul Kim
MASSEY & GAIL LLP
Suite #450
Washington, DC 20024
(202) 407-1268
kkim@masseygail.com

Courtland L. Reichman
Laura Carwile
Brian C. Baran
REICHMAN JORGENSEN
LEHMAN & FELDBERG LLP
100 Marine Parkway, Suite 300
Redwood Shores, CA 94065
(650) 623-1401
creichman@reichmanjorgensen.com

Sarah O. Jorgensen
REICHMAN JORGENSEN
LEHMAN & FELDBERG LLP
1201 West Peachtree Street, Suite 2300
Atlanta, GA 30309
(404) 609-1040
sjorgensen@reichmanjorgensen.com
*Attorneys for Plaintiff-Appellant
California Restaurant Association*

Plaintiff-Appellant California Restaurant Association moves under Appellate Rule 26(b) for a 28-day extension of time to file a response to the petition for rehearing en banc. As explained in the accompanying declaration, an extension of the current July 13 deadline is necessary to allow the Association sufficient time to prepare its response. Among counsel's other professional obligations, three of the Association's counsel, including lead counsel, will be serving as counsel and lead counsel respectively in a federal jury trial from July 11 through July 24, with a final pretrial conference on June 27. The need to prepare for and attend that trial would interfere with counsel's ability to prepare a helpful response by July 13, particularly in light of the volume of amicus briefing.

The Association therefore respectfully requests that the Court extend the deadline to respond to the petition for rehearing en banc to August 10, 2023. Appellee City of Berkeley does not oppose this request.

Dated: June 26, 2023

Gary J. Toman
WEINBERG WHEELER
HUDGINS GUNN & DIAL
3344 Peachtree Road, NE
Suite 2400
Atlanta, GA 30326
(404) 876-2700
gtoman@wwhgd.com

Kylie Chiseul Kim
MASSEY & GAIL LLP
Suite #450
Washington, DC 20024
(202) 407-1268
kkim@masseygail.com

Respectfully submitted,

/s/ Sarah O. Jorgensen
Courtland L. Reichman
Laura Carwile
Brian C. Baran
REICHMAN JORGENSEN
LEHMAN & FELDBERG LLP
100 Marine Parkway, Suite 300
Redwood Shores, CA 94065
(650) 623-1401
creichman@reichmanjorgensen.com

Sarah O. Jorgensen
REICHMAN JORGENSEN
LEHMAN & FELDBERG LLP
1201 West Peachtree Street, Suite 2300
Atlanta, GA 30309
(404) 609-1040
sjorgensen@reichmanjorgensen.com
*Attorneys for Plaintiff-Appellant
California Restaurant Association*

**DECLARATION OF SARAH O. JORGENSEN
IN SUPPORT OF UNOPPOSED MOTION FOR EXTENSION**

I, Sarah O. Jorgensen, declare:

1. I am a partner of Reichman Jorgensen Lehman & Feldberg LLP, which represents Plaintiff-Appellant California Restaurant Association in this appeal.

2. On June 22, 2023, the Court directed the Association to file a response to the petition for rehearing en banc within 21 days, making the response due July 13, 2023.

3. The Association requests a 28-day extension of that deadline, until August 10, 2023. The Association has not sought or obtained any prior extension of time for responding to the petition.

4. The requested extension is necessary to allow the Association's counsel to adequately prepare its response. Several of the Association's counsel, including me, are also responsible for a matter scheduled for trial in the United States District Court for the Northern District of Georgia from July 11, 2023 through July 24, 2023, with a final pretrial conference on June 27, 2023. The trial requires substantial preparation. In addition to the trial, the Association's counsel have several upcoming deadlines in other matters, including two principal briefs in the Federal Circuit due June 30, 2023 and post-trial briefing in the District of Delaware due June 27, July 11, and July 25, 2023.

5. The Association and its counsel have exercised diligence. I am confident that the response will be filed within the time requested.

6. On June 23, 2023, counsel for Defendant-Appellee City of Berkeley stated that the City consents to this request.

I declare under penalty of perjury that the foregoing statements are true and correct to the best of my knowledge.

Executed on June 26, 2023, in Atlanta, GA.

/s/ Sarah O. Jorgensen
Sarah O. Jorgensen